



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF SMART)
COMMUNICATIONS AND CELLULAR INC. FOR)
APPROVAL TO PROVIDE LOCAL EXCHANGE)
TELECOMMUNICATIONS SERVICES)
WITHIN THE STATE OF NEW JERSEY)

ORDER

DOCKET NO. TE06060439

(SERVICE LIST ATTACHED)

BY THE BOARD:

Pursuant to N.J.S.A. 48:2-1 et seq. and Section 253 of the Federal Telecommunications Act of 1996, 47 U.S.C. §151 et seq., and by letter dated June 6, 2006, Smart Communications and Cellular Inc. ("Petitioner" or "Smart Communications") filed a Petition with the New Jersey Board of Public Utilities ("Board") requesting authority to provide resold and facilities-based Unbundled Network Element ("UNE") local exchange and interexchange telecommunications services throughout the State of New Jersey. Petitioner has submitted its financial information under seal and has filed a Motion for Confidentiality along with a sworn affidavit with substantiation for confidential treatment in accordance with the Board's rules for determining confidentiality, N.J.A.C. 14:1-12 et seq. and in compliance with the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

Smart Communications is a privately held corporation organized under the laws of the State of New Jersey. Shraga Weber, President, has 100% ownership interest in the company. Petitioner's principal offices are located at 209 2nd Street, Lakewood, New Jersey 08701.

Petitioner has submitted copies of its Certificate of Incorporation and a Certificate of Good Standing from the State of New Jersey. According to the Petition, Smart Communications was formed to provide resold and facilities-based UNE local exchange and interexchange telecommunications services within the State of New Jersey. Petitioner states that it has filed a Resale Acknowledgement Letter to provide local exchange and interexchange services in New Jersey. Petitioner has not been denied authority to provide telecommunications services, its

authority has not been revoked in any jurisdiction and it has not been the subject of any civil or criminal proceedings. Currently, Petitioner is not providing telecommunications services in any jurisdictions and it has not yet commenced negotiations for an interconnection agreement with any Incumbent Local Exchange Carrier ("ILEC").

Petitioner seeks authority to provide resold and facilities-based UNE local exchange and interexchange telecommunications services to both residential and business customers in the State of New Jersey. Petitioner states that it will initially resell and/or provide Local Exchange Services ("LES") utilizing UNE through a commercial agreement with Verizon – New Jersey ("Verizon") to its end user customers and as market conditions warrant, it may augment its service offerings to include some facilities-based services. Petitioner states that it will combine switchless resale, leasing of local loops in conjunction with company owned switching, and/or purchasing UNE from Verizon and other carriers. Petitioner plans to provide basic telephone exchange, data, internet, digital subscriber line, access, call waiting and forwarding, speed dialing, distinctive ringing, three-way calling, operator services like 911 and E911, directory listing, third party calling arrangement, local calling and per use services such as call return and redial services to both residential and business customers throughout New Jersey. Petitioner will rely upon the managerial and technical expertise of the ILEC and facilities-based interexchange carriers which have been certified and deemed technically and managerially able to provide exchange service by the Board. Petitioner states that it has no current plans to install facilities in the State of New Jersey for the provision of LES and that if it decides to install such facilities in the future, it will probably use a similar configuration of equipment as used by the ILEC. Petitioner states that it maintains a toll-free number for customer service inquiries and will file a proposed tariff with the Board.

Petitioner requests a waiver of N.J.A.C. 14:1-4.3, which requires that books and records be maintained in accordance with the Uniform System of Accounts ("USOA"). In the interest of efficiency and to prevent undue burden, Petitioner requests permission to maintain its books and records in accordance with Generally Accepted Accounting Principles.

Petitioner asserts that approval of its Petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. Petitioner also asserts that approval of this Petition will provide New Jersey customers with access to new technologies and service choices and will permit customers to achieve increased efficiencies and cost savings.

With regard to its technical and managerial qualifications, Smart Communications states that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. Petitioner has submitted the professional biographies of its key personnel who, according to Smart Communications, are well qualified to execute its business plans and have extensive managerial and technical experience in the telecommunications industry.

DISCUSSION

On February 8, 1996, the Federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. §151 et seq., was signed into law, removing barriers to competition by providing that:

[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

[47 U.S.C. §253(a)].

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner is in compliance with the Board's filing requirements to provide telecommunications services in New Jersey.

In considering this Petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). The Board also considers the New Jersey State Legislature's declaration that it is the policy of the State to provide diversity in the supply of telecommunications services and the Legislature's findings that "competition will promote efficiency, reduce regulatory delay, and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed Smart Communications' Petition and the information supplied in support thereof, the Board FINDS that the Petitioner is in compliance with the Board's filing requirements to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES the Petitioner to provide local exchange telecommunications services throughout New Jersey. The Board also FINDS that in accordance with N.J.S.A. 48:2-59 and 48:2-60 and N.J.S.A. 52:27E-61 and 52:27E-62, the Petitioner is subject to an annual assessment by both the Board and Division of Ratepayer Advocate, respectively. The Board notes that the Petitioner will not be permitted to provide telecommunications services until a tariff is filed with the Board.

The Board HEREBY ORDERS that:

- 1) Petitioner file its tariff with the Board.
- 2) Pursuant to N.J.S.A. 48:2-16(2)(b) and N.J.A.C. 14:3-6.3, Petitioner shall file an annual report as of December 31 of each year, which is due on or before March 31 of the following year. Pursuant to N.J.S.A. 48:2-16.3, if Petitioner fails to file an annual report by the due date, Petitioner shall be subject to a penalty of \$5.00 for each day thereafter until such report is filed.
- 3) Pursuant to N.J.S.A. 48:2-62, Petitioner shall file a statement of gross intrastate revenues from operations form (AR3-1) as of December 31 of each year, which is due on or before June 1 of the following year.

On or before February 1st of each year, the Petitioner will receive from the Division of Audits an annual report package and a statement of gross intrastate revenues from operations form for the preceding calendar year. The purpose of these documents is to report the Petitioner's financial information and gross intrastate revenues from operations as of December 31 of each year. The annual report and a statement of gross intrastate revenues from operations form are due on or before March 31 and June 1 of the following year, respectively. If Petitioner does not receive these documents, it is Petitioner's responsibility to obtain them from the Board. It is also the Petitioner's responsibility to ensure timely filing of these reports.

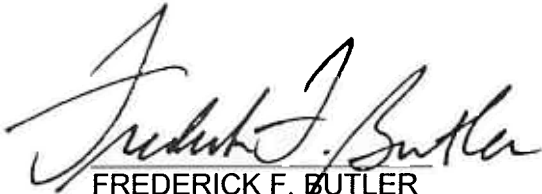
Regarding the Petitioner's request for a waiver of the Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirement that the Petitioner maintain its books and records in accordance with USOA. Therefore, the Board APPROVES the Petitioner's request for exemption from maintaining its books and records in accordance with USOA.

DATED: 7/21/06

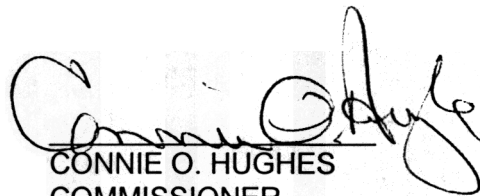
BOARD OF PUBLIC UTILITIES
BY:



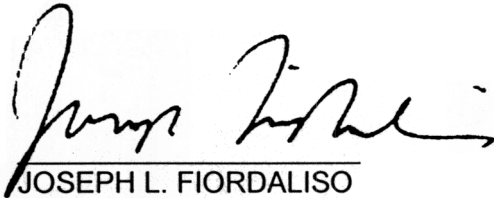
JEANNE M. FOX
PRESIDENT



FREDERICK F. BUTLER
COMMISSIONER



CONNIE O. HUGHES
COMMISSIONER

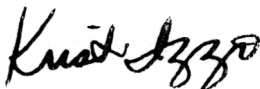


JOSEPH L. FIORDALISO
COMMISSIONER



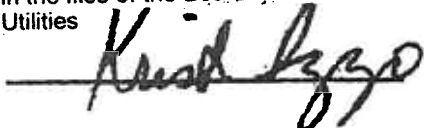
CHRISTINE V. BATOR
COMMISSIONER

ATTEST:



KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities



IN THE MATTER OF THE PETITION OF SMART COMMUNICATIONS AND CELLULAR INC.
FOR AUTHORITY TO PROVIDE LOCAL EXCHANGE
TELECOMMUNICATIONS SERVICES WITHIN
THE STATE OF NEW JERSEY

DOCKET NO. TE06060439

SERVICE LIST

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